

Rent Review: Here are the facts

Government
Publications

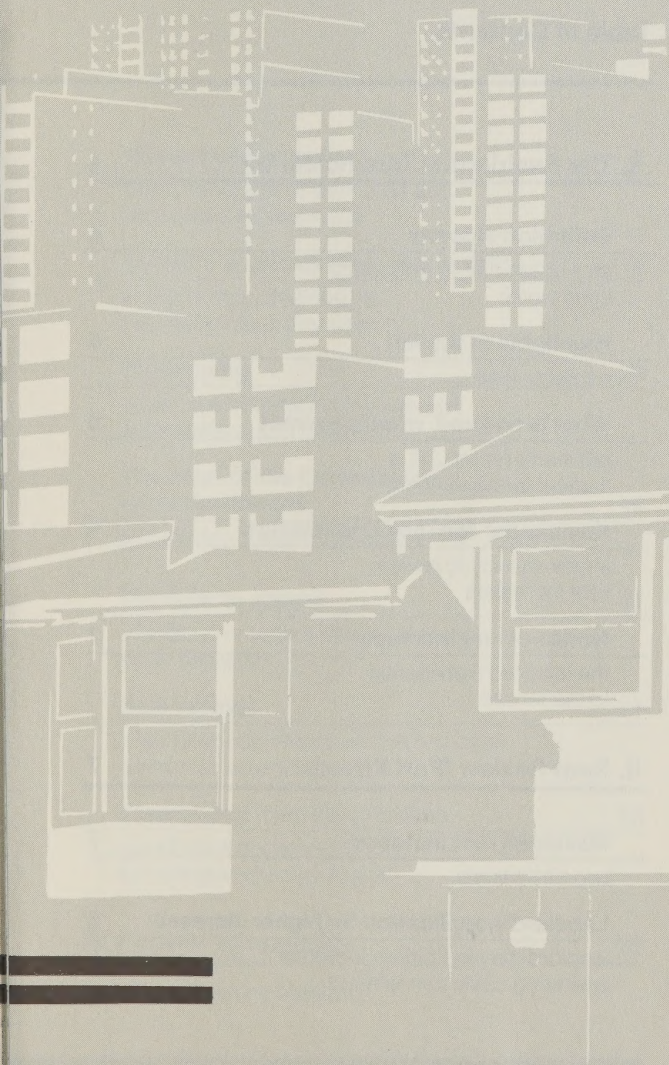


Residential
Tenancy
Commission

CA20N
CC110
-Z300



Rent Review: Here are the facts



This booklet provides general information on Part XI of Ontario's Residential Tenancies Act, dealing with the review of rent increases in most types of residential rental accommodations.

In the event of any difference between the Act and any information contained in this booklet, the Resi-

Table of Contents

I. The Residential Tenancies Act	4
Definition of terms	4
an explanation of frequently used words	
Highlights of the Act	5
a brief outline	
What is covered, what is exempt	5
not every rental unit is subject to the new Act	
Residential Tenancy Commission	6
a new agency to review rent increases	
Notice of rent increase	7
the landlord's obligation to the tenant	
II. Rent Review (Part XI) (what it is)	7
Maximum rent increase	7
two basic limits	
Landlord's application for higher increase	8
landlord may get higher increase if operating costs can justify it	

dential Tenancies Act, RSO 1980, Chapter 452 takes precedence, and should be consulted.

Copies of the Residential Tenancies Act may be purchased at local offices of the Residential Tenancy Commission or the Ontario Government Bookstore. (See back of booklet for addresses.)

Whole building review	8
<hr/>	
a new provision to save time and paperwork for landlords	
Tenant's application for rent review	9
<hr/>	
a tenant may challenge a rent increase of any amount	
The hearing	10
<hr/>	
where the application is reviewed with landlord and tenant(s)	
The order of the Commission/rent adjustments	10
<hr/>	
as binding as a court decision	
The right to appeal	11
<hr/>	
a landlord or tenant may appeal an initial decision	
Rent rebates	11
<hr/>	
what happens when a tenant has paid an excessive rent increase	
Exemptions from Rent Review	12
<hr/>	
not all units governed by the Act are governed by Part XI	
III Further Information	13
<hr/>	
where it can be obtained	

I. The Residential Tenancies Act

Part XI of Ontario's Residential Tenancies Act governs the frequency and amount of rent increases. Known as Rent Review, Part XI applies to landlord and tenants regardless of any individual agreements to the contrary. In other words, the Act may override any agreements between a landlord or tenant which conflict with the Act.

Only those sections dealing with the establishment of the Residential Tenancy Commission and its procedures, and with rent increases, have been proclaimed, and are now in effect.

Definition of terms

The following are definitions of key words and phrases used throughout this booklet and in the Act:

"landlord" means the owner or other person permitting occupancy of a rental unit who is entitled to possession of the residential complex, and who can enforce any of the rights of a landlord under a tenancy agreement, including the collection of rent;

"tenant" means a person who pays rent in return for the right to occupy a rental unit; a "sub-tenant" is a tenant of the person giving the sub-tenant the right to occupy a rental unit;

"rental unit" means any living accommodation, or site for a mobile home, used, or intended for use, as rented residential premises, including a room in a boarding house or lodging house;

"tenancy agreement" means an agreement between landlord and a tenant regarding the occupancy of a rental unit, whether written, oral, or implied. A tenancy agreement can be for a fixed term, or it can be periodic, without any specified term. Periodic tenancies are often oral arrangements for a monthly or weekly term;

"rent" means the total charges paid or required to be paid by a tenant to a landlord for the right to occupy a rental unit, and for any services, facilities or privileges included with the unit, such as parking or cable television, whether or not such services, facilities or privileges are charged separately;

"residential complex" means a building or related group of buildings, including a mobile home park,

in which one or more rental units are located, and includes all common areas, services and facilities available for the use of residents in the building, group of buildings or mobile home park;

“Commission” means the Residential Tenancy Commission.

For precise definitions of these and other terms, refer to the Interpretation section of the Residential Tenancies Act.

Highlights of the Act _____

Major provisions of the Act concerning rent increases include:

- a Residential Tenancy Commission is established as the agency to administer Rent Review;
- the landlord must give a tenant 90 days written notice before a rent increase can be imposed;
- maximum allowable rent increase, without review, is six per cent;
- rent can be increased no more than once in a 12-month period, regardless of amount;
- landlord must apply to the Commission for approval of an increase above six per cent;
- whole building review is introduced; all rent increases in a multiple-unit building can be determined at the same time, although increases may take effect at different times;
- premises occupied by roomers and boarders are covered by Rent Review (Part XI).

What is covered; what is exempt _____

The Residential Tenancies Act applies to almost any type of residential rental dwelling, regardless of the type of structure. This includes apartment buildings, houses, duplexes, mobile homes or mobile home sites, townhouses, or rooms in a boarding or lodging house.

However, certain types of rental accommodation are exempt from the Act, and thus the information in this booklet will not apply. These premises include:

- transient accommodation in hotels, motels, inns, tourist homes, hostels and similar places;
- seasonal or temporary accommodation in vacation homes (such as cottages);
- farm employees accommodation, located on or off the farm;

- non-profit co-operative housing accommodation provided *to its members*;
- accommodation occupied by persons in custody, undergoing rehabilitation, receiving care or treatment (as in group homes, half-way houses);
- temporary accommodation in shelters for persons in need;
- accommodation provided in connection with a hospital, nursing home or home for the aged (such as staff residences);
- accommodation, without self-contained kitchen and bathroom facilities, and not intended for year-round occupation, provided by an educational institution for its students or staff, *if*:
 - (a) provided primarily to persons under 18 years of age, or
 - (b) all major questions related to the living accommodation are decided after consultation with a council or association representing the residents;
- accommodation in a wholly or partially non-residential building for an employee of the building or of the non-residential activity carried on in the building (such as a night watchman's quarters in a factory);
- accommodation together with rental premises occupied for business or agricultural purposes when rented under a single tenancy agreement or lease (such as a store with an upstairs apartment) *if* both the residential and non-residential premises are occupied by the same persons.

Residential Tenancy Commission ---

The Residential Tenancy Commission has been established to administer the Residential Tenancies Act.

It has the authority to review proposed rent increases upon application by a landlord or tenant, and to determine the rent which may be charged. The Commission's approval is necessary for rent increases above six per cent.

The Commission has offices throughout Ontario where information can be obtained, and where individual Rent Review matters are dealt with in the local area. A Board of Commissioners has also been established to direct the administrative affairs of the Commission.

Notice of rent increase

Before a rent increase of any amount can be imposed, the landlord must provide the tenant with a standard *Notice of Rent Increase* at least 90 days before the date on which the increase is to take effect. This notice must state the intended increase both in dollars per month and as a percentage of the current rent, as well as the effective date of the proposed increase.

Tenants with an existing tenancy agreement or lease for a fixed term should receive the notice of increase no later than 90 days before the end of the fixed term. For tenants occupying rental units under periodic tenancy agreements (such as monthly or weekly), the notice should be received by the end of a week or month, for the increase to become effective at the beginning of a week or month 90 days later.

If the required notice is not served in writing 90 days before the effective date, the increase is void.

This provision does not apply where the increase is to affect only a new tenant.

II. Rent Review (Part XI)

Rent Review is a procedure for the review of rent increases in certain types of residential rental accommodation. It applies regardless of the content or nature of a tenancy agreement, whether written, oral or implied.

The provisions of Part XI of the Act in particular apply to rent increases taking effect on or after December 1, 1979 (Note: increases which took effect prior to that date *may* have been subject to the former Residential Premises Rent Review Act, 1975).

Either a landlord or tenant may apply to the Residential Tenancy Commission for review of a proposed rent increase to determine whether or not it is justified.

Maximum rent increase

The rent for an individual rental unit may not be increased more than once in any 12-month period, regardless of amount. This applies whether or not there is any change in the landlord or tenant who owns or occupies the unit during the 12 months since the date of the last increase for the unit.

In addition, a landlord cannot charge and a tenant need not pay a rent increase of more than 6% for a particular rental unit unless the Residential Tenancy Commission has authorized a higher increase.

Landlord's application for higher increase ---

A landlord may apply for permission to increase the rent by more than six per cent. This is done by filing a *Landlord's Application for Rent Review* with the Residential Tenancy Commission no later than 60 days before the intended date of the proposed increase. A copy of the application must be served promptly on the tenant of the unit concerned.

Where there is more than one unit in a building, a copy of the application must be served promptly on all tenants in the building (see Whole Building Review).

In making an application for a higher increase, a landlord must satisfy the Commission that the costs of operating the rental premises justify the proposed increase in rent. In other words, if the landlord's costs of operation have or will increase, a rent increase of more than six per cent may be justified.

In reviewing the landlord's application, the Commission will consider the landlord's rental revenues and his costs of operation, which may include:

- financing
- utilities
- property taxes
- maintenance and repairs
- capital expenditures

The Commission may also take into consideration:

- any financial loss the landlord has incurred or may incur in the operation of the rental premises;
- any improvement or deterioration in the standard of maintenance or repair affecting the building;
- where a landlord is in a financial hardship, an increase in rental revenue up to two per cent (2%) above the overall costs of operation.

Whole Building Review ---

When a landlord applies for approval of a rent increase of more than six per cent on any unit within a multiple-unit building, he is also required to apply at the same time to determine the rents for all units in the building. This happens whether or

not increases in rents for all units can take effect at the same time.

When the increased costs of operating a multiple-unit building have been determined (as described in the preceding section), the Commission then determines the overall amount of increased revenue the landlord will be entitled to earn from the whole building.

The overall increase is then apportioned equally among all rental units in the building. The Commission calculates the percentage increase in overall rental revenue the landlord will be entitled to earn, and applies the same percentage to the existing rent of each unit in the building, to arrive at the new, maximum, monthly rent.

On receipt of a landlord's application for rent review, the Commission will notify the landlord and tenant(s) of the time, place and date of a hearing at which the proposed increase will be reviewed.

In the case of a multiple-unit building, since the rents for all units will be reviewed at the hearing, tenants will receive notice of the hearing even though they may not have received a notice of rent increase for their particular unit from the landlord. However, they will have received a copy of the landlord's application for rent review.

When a hearing date has been established, the landlord must file with the Commission all the material and information on which he intends to support his application for rent review, no later than 14 days before the hearing.

Tenant's application for rent review _____

A tenant may apply to the Commission to dispute a proposed increase regardless of amount. To do this, the tenant must file with the Commission a *Tenant's Application for Review of Intended Rent Increase* no later than 60 days before the effective date of the proposed increase. A copy of the application must be served promptly upon the landlord or his agent.

On receipt of a tenant's application, the Commission may attempt to mediate the dispute between the landlord and tenant, to see if an agreement can be established for a mutually agreeable rent increase. If this happens, an agreement would be

signed by both parties, and would be binding upon the landlord and tenant.

If no agreement is reached, the tenant's application is turned over to a Commissioner who will conduct a hearing to review the proposed increase, taking into account only:

- variations, and the reasons for them, in the rents charged by the landlord for similar rental units within the same building;
- rents charged by other landlords for similar rental units in similar buildings in the same geographical area;
- any improvement or deterioration in the standard of maintenance or repair affecting the rental unit.

The hearing ---

A Rent Review hearing is held before a single Residential Tenancy Commissioner in the area where the rental premises concerned are located. Any material filed with the Commission by any party can be examined by all participants before and at the hearing.

At the hearing, both the landlord and the tenant(s) have an opportunity to submit evidence or arguments for or against the proposed rent increase. Witnesses called to give evidence or material submitted by any party may be questioned by the participants or by the Commissioner.

Landlords and tenants may appear in person at the hearing or be represented by someone acting on their behalf. However, a hearing may also proceed in the absence of any party.

A decision or order of the Commission ---

Following a hearing, the Commissioner issues a decision to the landlord and tenant(s) concerned. Where the decision concerns rental amounts, it will take the form of an *order* which states the maximum allowable rent which may be charged for each particular rental unit under review, and the date on which this amount may take effect. If the order allows a rent increase, no further increase may be charged within 12 months from the date the increase actually takes effect.

In hearings involving whole building review, the Commissioner's order does not replace the 90-day

notice of rent increase which the landlord must give the tenant. Therefore, an increase up to the maximum amount of rent allowed by an order cannot be imposed until the landlord has given the required 90-day notice.

In most cases, the Commissioner will try to render a decision or order before the effective date of the proposed increase. If this is not possible, then at the time of the effective date, the landlord is permitted to charge a rent increase up to the lesser of six per cent or the amount of proposed increase, pending the outcome of the hearing.

If the Commissioner's order is issued after the effective date of increase, an adjustment may be necessary between the landlord and tenant(s) as a result of the order.

The right to appeal ---

Any party to a rent review application who took part in the initial hearing has the right to appeal the Commissioner's decision or order. A party who did not attend the hearing may apply to a member of the Board of Commissioners for permission to appeal the decision or order.

To initiate an appeal, a *Notice of Appeal* must be filed with the Commission within 15 days of receiving the order or decision. A copy of the notice must also be given to the other party: a tenant must give a copy to the landlord, the landlord must give a copy to the tenant(s) concerned.

The appeal is reviewed at another hearing by an appeal panel consisting of two Appeal Commissioners and one member of the Board of Commissioners, none of whom was involved in the initial decision or order.

After reviewing the appeal, the panel may either affirm the initial decision or order of the Commissioner, or issue a different decision or order.

Rent rebates ---

If a tenant has paid a rent increase in excess of an amount allowed under Part XI of the Residential Tenancies Act, or under the former Residential Premises Rent Review Act, 1975, the tenant

may apply to the Commission for an order requiring the landlord to pay back the excess rent to the tenant.

In addition to ordering a rebate, the Commission will also establish the lawful rent which may be charged for the rental unit in question.

Exemptions from Rent Review ---

Not all residential rental premises covered by the Residential Tenancies Act are subject to Part XI, Rent Review. Although certain types of rental units are exempt from Part XI, the landlord of such premises may still be required to give the tenant 90 days written notice of any rent increase.

Premises exempt from Rent Review include:

- a rental unit in a residential building owned, operated or administered by or on behalf of the federal, provincial or municipal governments, or any of their agencies;
- a rental unit in a non-profit housing project where rents are subject to the approval of the federal, provincial or municipal governments, or any of their agencies;
- a rental unit in a non-profit co-operative housing project as defined in the National Housing Act of Canada;
- a rental unit in a building owned, operated or administered by a religious institution for a charitable use on a non-profit basis;
- a rental unit in a building, no part of which was occupied as a rental unit before January 1, 1976;
- a mobile home or mobile home site not occupied as a rental unit before January 1, 1976;
- a rental unit provided by an educational institution, with self-contained bathroom and kitchen facilities, and intended for year-round occupation by full-time students or staff, *if* there has been consultation regarding a rent increase with a council or association representing the residents.
- a rental unit for which the monthly rent was \$750.00 or more before October 30, 1984.

In addition, where a tenant receives a rent subsidy in a privately-owned rental building, Rent Review may apply to the overall rent the landlord may charge for the unit, but not to the portion of rent paid by the tenant.

III. Further Information

This booklet is intended only as a basic guide for landlords and tenants concerning rent increases under the Residential Tenancies Act. Copies of the Act, standard forms and further information can be obtained from local offices of the Residential Tenancy Commission.

Residential Tenancy Commission offices

METROPOLITAN TORONTO

56 Wellesley Street West
8th Floor

Toronto, Ontario

M7A 2J9 (416) 964-8281

(For City of Toronto only)

7 Overlea Boulevard
6th Floor

Toronto, Ontario

M4H 1A8 (416) 429-0664

(For East York only)

2100 Ellesmere Road
3rd Floor

Scarborough, Ontario

M1H 3B7 (416) 438-3452

(For Scarborough)

5233 Dundas Street West, 4th floor

Islington, Ontario

M9B 1A6 (416) 236-2681

(Etobicoke and York boroughs)

45 Sheppard Avenue East
5th Floor

Willowdale, Ontario

M2N 5W9 (416) 224-7643

(For North York and Regional Municipality of York)

CENTRAL-WEST

25 Main Street West
16th Floor

Hamilton, Ontario

L8P 1H1 (416) 528-8701

(For Regional Municipalities of Hamilton-Wentworth,
Halton, Haldimand-Norfolk, and County of Brant)

43 Church Street
6th Floor

St. Catharines, Ontario

L2R 7E1 (416) 684-6562

(For Regional Municipality of Niagara)

30 Duke Street West
4th Floor
Kitchener, Ontario
N2H 3W5 (519) 579-5790

(For Regional Municipality of Waterloo,
Counties of Wellington, Dufferin)

SOUTHWESTERN

80 Dundas Street East
1st Floor
London, Ontario
N6A 2P3 (519) 673-1660

(For Counties of Middlesex, Oxford, Elgin, Lambton,
Perth, Huron)

99 Chatham Street East
7th Floor
Box 189
Windsor, Ontario
N9A 6V6 (519) 253-3532
(For Counties of Essex, Kent)

1131 Second Avenue East
Suite 106
Owen Sound, Ontario
N4K 2J1 (519) 376-3202
(For Counties of Grey, Bruce)

CENTRAL EAST

114 Worsley Street
Barrie, Ontario
L4M 1M1 (705) 737-2111
(For County of Simcoe, District Municipality of Muskoka)

139 George Street North
Peterborough, Ontario
K9J 3G6 (705) 743-9511
(For Counties of Peterborough, Northumberland, Victoria,
Haliburton)

11 Simcoe Street North
5th Floor
Oshawa, Ontario
L1G 4R7 (416) 723-8135
(For the Regional Municipality of Durham)

1310 Dundas Street East
2nd Floor
Mississauga, Ontario
L4Y 2C1 (416) 270-3280
(For Regional Municipality of Peel)

EASTERN

275 Ontario Street

Main Floor

Kingston, Ontario

K7K 2X5 (613) 547-2244

(For Counties of Frontenac, Lennox & Addington, Leeds & Grenville, Hastings, Prince Edward, and that portion of Lanark County lying west of Highway 29, excluding the towns of Carleton Place and Smiths Falls (see Ottawa))

10 Rideau Street

3rd Floor

Ottawa, Ontario

K1N 9J1 (613) 230-5114

(For Regional Municipality of Ottawa-Carleton, Counties of Renfrew, Stormont-Dundas-Glengarry, Prescott & Russell, and that portion of Lanark County lying east of Highway 29, including the towns of Carleton Place and Smiths Falls)

NORTHEASTERN

215 Oak Street East

North Bay, Ontario

P1B 8P8 (705) 476-1231

(For Districts of Nipissing, Parry Sound)

199 Larch Street

5th Floor

Sudbury, Ontario

P3E 5P9 (705) 675-4373

(For Regional Municipality of Sudbury, Districts of Sudbury, Manitoulin, Algoma)

273 Third Avenue

2nd Floor

Timmins, Ontario

P4N 1E2 (705) 264-9555

(For Districts of Cochrane, Timiskaming)

NORTHWESTERN

435 James Street South

3rd Floor

P.O. Box 5000, Station "F"

Thunder Bay, Ontario

P7C 5G6 (807) 475-1595

(For Districts of Thunder Bay, Kenora and Rainy River)

For phone inquiries from outside the toll-free dialing area for any of these branches, the office may be called without charge by dialing the Operator and asking for **Zenith 9-6000**.

